

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DEBBIE PILAT,

Plaintiff,

16cv1256

ELECTRONICALLY FILED

v.

OPEN AIR IMAGING, INC., LAURIE
JOSEPH

Defendants.

Memorandum Order

This is an action brought pursuant to the Employee Retirement Income Security Act. (ERISA). Plaintiff alleged that Defendants, as employers under ERISA, failed to properly withhold certain sums for her retirement account in violation of their fiduciary duties. The amount at issue in this case for failure to submit the withholding to any retirement account is \$7,639.22; \$2,053.42 for failure to provide the agreed-upon employer match; \$3,217.35 for lost interest as a result of Defendant's failure to submit withholdings to Plaintiff's retirement plan; and, failure to submit the funds in a timely manner is \$265.68, for a total of **\$13,175.67**.

Plaintiff served Defendants with the Complaint on October 31, 2016 (doc. 5), and an Order setting the Initial Case Management Conference was entered on November 10, 2016 ([doc. 7](#)). Plaintiff was directed to immediately serve the Order setting the Initial Case Management Conference on Defendants. On February 13, 2017, the Initial Case Management Conference occurred and Defendants were not present. Therefore, on February 21, 2017, the Clerk of Court entered Default against Defendants for failure to plead or otherwise defend this action ([doc. 11](#)). Then, on March 8, 2017 a (Second) Motion for Default Judgment was filed ([doc. 15](#)), which this

Court granted (doc. 17). This Court directed Plaintiff to file the necessary documentation supporting the Judgment, which she did by Affidavit and supporting exhibits on March 14, 2017 ([doc. 18](#)). On March 15, 2017, this Court entered an Order requiring Plaintiff to immediately serve said Affidavit upon Defendants or Counsel for Defendants.

In addition to the above requested amounts of damages, which, as stated, total **\$13,175.67**, Plaintiff further seeks attorney's fees and costs under ERISA Section 502(g) in the amount of \$6,775.00 plus \$575.00 in costs for total fees and costs of \$7,350.00. This Court finds that the amount of hours spent on this litigation (27.1 hours) and the hourly rate of Ms. Pollock-Avery (\$250.00 per hour) is fair and reasonable. By this Court's calculations, the sum total amount of damages to which Plaintiff is entitled is \$20,525.67.¹

The Court will therefore enter Default Judgment in favor of Plaintiff and against Defendants in the amount of **\$20,525.67**. A Judgment Order follows.

SO ORDERED this 22nd day of March, 2017.

s/Arthur J. Schwab
Arthur J. Schwab
United States District Judge

cc: All ecf-registered counsel of record

¹ Plaintiff, however, requests a total of \$20,650.77, a discrepancy of \$125.10.